

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
October 9, 2007**

A regular session of the Winchester Common Council was held on Tuesday, October 9, 2007 in the Council Chambers, Rouss City Hall. President Charles Gaynor called the meeting to order at 7:30 p.m.

PRESENT: President Gaynor, Mayor Minor, Vice-Mayor Buettner, and Councilors Butler, Clark, Coyne, Helm, Major, Masters, and Nelson. (10)

ABSENT: Vice-President Griffin. (1)

INVOCATION – Reverend Jim Hewitt, Braddock Street United Methodist Church, pronounced the invocation.

PLEDGE OF ALLEGIANCE – Mayor Minor led councilors and citizens in the Pledge of Allegiance.

APPROVAL OF MINUTES – Councilor Coyne moved that the minutes of the September 11, 2007 Regular Meeting, September 14, 2007 Special Meeting, September 19, 2007 Special Meeting, and October 2, 2007 Special Meeting be approved as presented. *The motion was seconded by Councilor Major and unanimously approved by voice-vote.*

REPORT OF PRESIDENT

- Recognition of the INSIGHT Academy participants in attendance.

President Gaynor acknowledged the participants in the audience. He explained the INSIGHT Academy is for any citizen who is interested in learning about government. Hopefully, the academy will inspire them to volunteer on a board.

- Public Hearing: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 14.01 OF THE CHARTER OF THE CITY OF WINCHESTER TO ALLOW RE-APPOINTMENT OF SCHOOL BOARD MEMBERS IN OFFICE AS OF JULY 1, 2007.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:36 p.m.

- Public Hearing: AN ORDINANCE TO CONVENTIONALLY REZONE AN APPROXIMATELY 0.70 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AND AN APPROXIMATELY 0.50 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO COMMERCIAL INDUSTRIAL, CM-1 DISTRICT AT 1930 SOUTH LOUDOUN STREET AND TO CONVENTIONALLY REZONE AN APPROXIMATELY 0.18 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AND AN APPROXIMATELY 0.14 ACRE PORTION OF LAND FROM INTENSIVE

INDUSTRIAL, M-2 DISTRICT TO COMMERCIAL INDUSTRIAL, CM-1 DISTRICT AT 1936 SOUTH LOUDOUN STREET. **RZ-07-08**

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:37 p.m.

- Public Hearing: AN ORDINANCE TO CONVENTIONALLY REZONE A 0.103 ACRE PORTION OF LAND FROM MEDIUM DENSITY RESIDENTIAL, MR DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 389 MILLWOOD AVENUE AND TO CONDITIONALLY REZONE A 0.397 ACRE PARCEL FROM MEDIUM DENSITY RESIDENTIAL, MR DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 393 MILLWOOD AVENUE. **RZ-07-07**

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:37 p.m.

- Public Hearing: To provide interested citizens an opportunity to appear before the Council and state their views on approval or disapproval of the budget supplemental appropriations and transfers for Fiscal Year ending June 30, 2008.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:38 p.m.

- Public Hearing: To consider a resolution requesting the Commonwealth Transportation Board to program an Enhancement Grant project for the Winchester Green Circle – Town Run Linear Park.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:38 p.m.

- Public Hearing: AN ORDINANCE AMENDING ARTICLES 1-2, 3-1, 4-1, 5-1, 5.1-1, 6-1, 7-1, 8-2, 9-1, 13-1, 15-1, 15.1-1, 16.1-2, 18-4, 21-2, and 21-3 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITIONS OF ADULT CARE RESIDENCE, ALCOHOL TREATMENT CENTERS, DRUG TREATMENT CENTERS, FAMILY, FAMILY CARE HOME, GROUP HOME, PROTECTED POPULATION RESIDENCE, AND SINGLE HOUSEKEEPING UNIT; AND, PERTAINING TO USE AND OCCUPANCY OF DWELLING UNITS; AND, PERTAINING TO VIOLATIONS AND PENALTIES. **TA-07-02**

President Gaynor asked Zoning Administrator Vince Diem to give a summary and the rationale of the ordinance and to answer any questions that might be asked.

After the summary, Mr. Diem stated that we are delegated the responsibility to maintain minimum standards or at least identify properties that are not meeting minimum standards in the City of Winchester for the intent of protecting public health, safety, and welfare. This is not simply for the people that live outside of the house but for the people that live inside the house as well. We have the Rental Housing Ordinance Program with inspections intended to provide the same services to citizens to make sure that accommodations, regardless of what their background or social economic status is or if

they have a disability, be provided with the same right to healthy and safe housing. The purpose and intent of this ordinance is to continue that effort and the City staff asks City Council to review and consider the text amendment.

President Gaynor asked if a majority of the homes or units are 'for profit'. Mr. Diem stated that it is not a one-size-fits-all application. Typically, overcrowding is in non-permitted or non conditional use boarding houses or halfway houses. In these situations, the property owner benefits financially, but also violations in the property maintenance and building codes exist (minimum standards are not being met). Some of these have been identified by the Rental Housing Programs, complaints from the community, and through staff efforts working in the community every day.

Paul J. Whittemore of 30 E. Piccadilly stated he is the owner of Winchester News Stand and a lot of these people frequent his store. He stated he can understand the health reasons and believes 100% in the health reasons and keeping these rooming houses up to snuff for the safety of all these wonderful people. If Al Sharpton and Jesse Jackson knew about this happening today, they would probably both be down here wheeling over what should be done for these poor people. But, please, the economy in the City is tough right now. All he is hearing is "let's build up the Mall", "let's put some more businesses and people in there." He is a small business owner and if he loses one third of these people, it's going to be tough for him to operate his store. He asked to please give a lot of deep consideration on what we need to do for these poor people because they are the backbone of our City whether we realize it or not. He stated he has a 10 cent tax on cigarettes that he can go into the county and get them cheaper. But, because he's an owner, he has to pay the 10 cents extra for that. We have the 10 percent difference on these fast food restaurants that we know the City is taking. He stated if you take away these poor people from our area, he thinks we are going to be hurting. He wholeheartedly believes we need to have safe living quarters for these people to live in.

Patrick Farris of 505 N. Loudoun Street stated he is appearing tonight to voice his strong support for the adoption of an ordinance amending the Zoning Ordinance pertaining to definitions of various types of group homes, family, housekeeping units, and use and occupancy of dwelling units. He stated the reasons for supporting this proposed amendment are specific, however, first and foremost he must point out that the adoption of this amendment, in his opinion, not only has the potential to improve his family's quality of life and ability to freely use and enjoy their property. But, could actually solidify and fulfill their expectations of those protections put forth in the City's own statements of intent for high residential areas. Mr. Farris stated that in defense of this amendment, he wanted to point out that Mr. Diem and future Zoning Administrators will be able to provide a higher quality service to our citizens in a more cost-effective and efficient manner; language enshrined, of course, in our City's mission statement. This amendment represents months of research and preparation, comparison with other communities and reflection upon the current and future needs of this community. It would appear universally acknowledged that Mr. Diem knows his job well and understands what tools he needs in order to conduct the business of the City. Mr. Farris stated that second, some of the articles of the City Code are long overdue for updating. Either out of date or redundant language offers inspectors and administrators for the City, as well as property owners, only confusion. Simplification and codification of terms and definitions seems a proven and common sense approach to maintaining any form of legal code. Mr. Farris stated that

third, local code should not be in conflict with State or Federal code. The preservation of hierarchy in the legal system allows for the individual to pursue a clear line of appeal, and for communities to have a clear understanding of what is permissible within their localities. It also goes without saying that the reduction of conflict between local and state code and law ensures a reduction in legal challenges and the expenditure of time and expense on behalf of localities. Mr. Farris stated that finally, adoption of this amendment would not deprive property owners of their rights. Conversely, failure to adopt this amendment would guarantee the continued and potentially expanded deprivation of the rights of those who own property within residentially zoned neighborhoods, and who acquired our properties on good faith with the understanding of what the City allowed and would permit within the zoning overlays already established.

Mr. Farris continued to read a letter prepared by his wife, Krista Farris, who was unable to attend the meeting but was signed up to speak. Mrs. Farris wrote the following: *I call on you to support the proposed ordinance clarifications and changes. It is an essential tool the Zoning Department needs to help enforce the code and laws that already exist on the City of Winchester's books. Street to street in Winchester, single family homes are being used in non-traditional ways that are destructive to the core of neighborhood safety and hamper the growth of a stable strong citizenry and economy. Some landlords might argue it is kind-hearted and practical to allow more than four unrelated adults in a single family dwelling as a means to address a supposed lack of affordable housing in the city. I would like to counter this argument in two ways. First, renting single family homes room by room to individual strangers by the week has decreased property values and destroyed a sense of neighborliness in several Winchester neighborhoods. This, in essence, has taken a strapped middle and lower class that live in these neighborhoods and diminished the quality of their social and economic life. Our street, North Loudoun Street, is known to have several weekly rentals. In addition, there are several group homes and recovery homes on the street. While mixed use neighborhoods are desirable in a city to an extent, it seems the large concentration of these uses in homes zoned "single family" in a neighborhood that is zoned "residential" has stripped away our rights as property owners and decreased the market value of our home. Some neighborhoods, where single-families and single households are trying to live peacefully, are simply overburdened by the proliferations of group homes and over-crowded weekly rentals. I am not calling for an end to rentals and group homes, but rather asking that the Zoning Department be given the tools it needs to enforce codes. This will not strip rights away. If anything, it will assure that affordable housing is also adequate housing. If a landlord is already providing adequate legal housing, the clarifications to the code should not affect him or his pocketbook. Likewise, a well-run supervised group home or rehabilitation house would also be able to continue functioning without interruption. Second, allowing four unrelated adults in a single-family dwelling is reasonable. The city and its citizenry need not pad the wallets of landlords who find easy money piling people in cramped space, thus perpetuating public health threats, destructive social problems, and transience. What happens when eight unrelated adults, strangers to each other, rent rooms by the week and share one kitchen and a bathroom in an unsupervised house? Please ask me and my family! We have heard our fair share of profanity laced arguments, smelled the use of illegal drugs, and seen vulgar sexual indiscretions. Certainly that can happen in any neighborhood. However, when turnover is weekly, it is next to impossible to know one's neighbor and resolve issues. It is nearly impossible for a family like mine, with three small children, to feel a sense of security amongst the rampant transience in what is zoned a*

residential district. Please approve these clarifications to the city's code so the Zoning Department can continue to help Winchester's neighborhoods flourish.

Paul Roland of downtown Winchester stated he is a college-educated Christian. He is a business professional. He has worked with major corporations. He has owned property, paid taxes, and participated as lead in the volunteering communities he has lived in. He is the father of two children ages 10 and 8. He is currently separated from his wife but is financially supporting them. He stated that 9/11 is over and we have buried the dead; God bless them and their families. However, today, there are many individuals like him who are struggling from the negative business aspects of this horrific event and the dot com implosion that took place. As a result of that event and some personal factors, he has lost a job, his wife, his home, his family, and his savings. He has lost everything. His goals of today and his future are to reestablish himself as a productive member of this community and to reunite his immediate family and he has selected Winchester to do this. He is a room renter by week here in Winchester. The reason why no residential zoning changes should take place is key for your understanding. By your potential over regulation of the existing home occupancy laws, you may deny him and other potential residents of this area the opportunity and promise of our tomorrows. He stated we do have the potential of becoming meaningful participants in your community. In addition to the opportunity for continued personal and financial growth, let's speak of the benefits of weekly room rent under the proper management. Like the mission statement of your Housing and Neighborhood Development, "we are working hard together", this is a quote, "to lead the change in making our community home. It is our mission to facilitate the creation and development of safe, decent and accessible housing. We promote opportunities for self-sufficiency and self-improvement. And, we encourage participation in building stable, thriving neighborhoods that collectively make our community better." He stated this is very much like the communities that the Burns are currently managing in this area. Affordable housing can include, but is not limited to, weekly rental housing. He is provided:

- A safe and secure environment.
- A family environment with other tenants. He is not in a hotel.
- It's affordable.
- A city location. He is not on the byway or highway or remote area.
- A quality room with furniture, power, electric, cable and services that today, this is today, would be very difficult for him to get himself.
- A clean and code compliant environment including kitchens and bathing facilities, a non transient environment. It's more stable than you think.
- A networking environment with the other tenants.
- Owners who help him network and give him advice to this area that he is relatively new to.
- An environment where it is safe and compliant for his child custody privileges. It's very difficult to find in these other options.

He thanked Council for their time in considering these factors. These are very important today and in the future. Please remember that in addition to the property owners, your decisions will affect the future of this Winchester community and have a more profound effect on people just like him and people in the audience. People who are only trying to live today the best as they can while we better our lives and transition to successful permanence in Winchester.

David Burns of 1675 Braddock Street stated that what you see here is his general weekly tenants holding the little signs. He stated that most of them live in his properties. He stated we are a family. His wife knows each and everyone of them individually. She knows their problems and she may speak later. If you pass these revisions, these people could potentially lose their homes because they are weekly transient tenants in your eyes. Some of them have been with us for seven years, others 5 years, three years, two years, one year, 6 months. He stated very few people in this room have not been with us 30 days or more. In your laws, and when we pay tax on our boarding houses, a transient is a person who stays less than 30 days. Hardly anyone in this room is a transient by that definition. Don't throw these people out on the street. At the least, let's table these revisions and get together and figure out what to do to take care of these folks.

Sam Leinbach of 317 Fairmont Avenue stated he supports the ordinance as written. He stated it has been very hard to write. It has a lot of different parts to it. It is substantially well done. He stated his only question is when you get into the group homes and those pertaining to people who have mental disabilities or drug abuse problems. He asked how the City is going to monitor those homes so the people can be well taken care of and so the citizens are also well protected. He stated that is he only thought and otherwise he concurs with the ordinance.

Suellen Knowles of 28 Peyton Street stated a lot of what she was going to say has already been said but she wanted to add a couple of things. She stated a lot of what people have said here relates to a sense of identity and a sense of neighborhood. She thinks all of us know that a good neighborhood is one that is also going to make a strong, vibrant community. We begin to have a disbalance when you find that it is not the same people that share your values or have a sense of history about the area or have a sense of stability. Something has declined out of cohesiveness in that area. She stated she lives in the historic district. Some of the people that have spoken live in that district. This book that you put out states the reason you created a historic district was because you wanted to have something unique and irreplaceable. Part of it being unique is the fact that the way the houses were constructed was not meant for the way they are being used today. She stated her house is the oldest in the area which she lives. Across the street from her are houses that were built in the 1900s. They stood on the sidewalk. They have no driveway. She stated as soon as a house changes from a residence to a rental, we notice it immediately. There is more traffic on the street. You find it harder to find a place to park and there is no place for your friends or family when they come to visit to even park in your neighborhood. She stated that she was so concerned about what was happening on North Loudoun Street, which is also a historic street, that she asked for a crime report. In the first seven months of 2007, 65 warrants have been put out for arrest. These investigations cover everything from larceny, robbery, arson, abuse, drunkenness, and noisy parties. A lot of it can be attributed to the two blocks she investigated. She stated the reason why this area is historic is that a majority of them were also built in the 1900s. She knows that right now there are 5 buildings that have multi-family uses there. Again, the houses were not built to accommodate that kind of living. She stated that in the 30's and 20's, a lot of the houses on that street divided their properties. So now, on Lafayette Alley, instead of having garages, you have more residences. If there were a fire, she is not even sure the fire engines could get to those places now. If you want the historic district to continue, it's not just the facade or the architectural details of a building, it's the people that take the spirit and the interest to safeguard the properties and continue to pay tribute to the people who,

after the Civil War, were able to gather their resources and struggle back and finance houses and that's where a lot of our people are living today. You can't tell the story of the city and the pride you have for it, if you turn all of these establishes into commercial entities.

Bryan Walton of 320 Canyon Road stated he is a dental professional. When he was transferring from one state to the other, his company gave him Mr. Burns' name as a recommendation. With Mr. Burns, he found a very comfortable, very warm environment. It was safe with all of the amenities he needed. Mr. Burns also helped him to find a residence for his family. He stated he enjoys Winchester now. He stated he is very poor. Mr. Burns has provided a service that has granted the opportunity for those for who do not have a place to lay their head comfortably or are economically sound. He stated Mr. Burns has provided something that most of us would most likely like to have the opportunity to take advantage of if you were in the same situation. Each one of us has to provide for our families. He provides a family environment in many cases and he gives as one gentleman to another someone who has an opportunity to stand up and become someone who has their own self respect. He stated if you take that away, you take away the possibility of someone having a residence that is safe and opportunities in relation to economy and family and networking. He stated that people who have been able to add to your community and economy may not be necessarily adding to your economy any more. They will be draining from it.

Holly Beth Hatcher of 440 North Loudoun Street stated she and her husband bought their house in November of 2004. She is not here to speak against Mr. Burns or any other land owner. She is here for the amendment to zoning. She didn't think this targeted any one person. She thinks the zoning amendment is good to get the City a chance to clearly define what people can or can't do and when they clearly overstepped the line and where the line is. It's not about kicking people out of their houses or not giving them anywhere to live. It's smart giving the City the tools it needs to do the job to keep everybody safe and happy. She stated that, in her research, the area she lives in now has had apartment rentals since the mid 90s or so. There were many more single families in the area when they bought their house. The Burns, just one particular name, started buying the summer after they moved there. She stated the neighborhood has changed with just the one land owner. The balance has tipped to be one specific group of people that live there. She stated she sits on her front porch with her children on a daily basis and sees the community they are all taking about. It is there and she would not want to take that away from them. But, she would like to see more of a balance restored to the community to be families and weekly renters and monthly renters and all kinds of things living together not just one thing. She stated she would not like everyone to be just like her either. That's not what she is looking for. She is looking for a city environment.

Phillip Dempsey of 550 North Loudoun Street stated he moved to Winchester on September 9, 2004 when his company moved from Leesburg, Virginia. He has been with the same landlord, David Burns, since then. He stated that his son plays with Dave Burns' son. His son plays with other neighborhood kids as well. The place is very much a community. He stated he does not think he is a transient according to the definition in Webster's Dictionary. He has been here awhile and just because he pays by the week, it does not make him a transient. He stated it is actually discriminatory phrase that comes from the individual perspective of never having been in the situation that we are in. He

stated this affects the lives of the poorest families and the poorest people. It affects the landlord's liberties to provide us boarding and housing. It adversely affects the pursuit of happiness of every child, man or woman who can't have a home somewhere just because they pay by the week. The city will have to answer a question if this passes. The local shelters will be loaded with families because of their inability to afford a monthly rent or afford a deposit and first and last month's rent and the inability to provide good credit records to apartment buildings that everyone can live in apparently. He stated he has been laid off since June and can't afford to pay anything other than by the week. He ended by reading Psalms 39:4 "Lord cause me to know my end and measure of my days, that I know how transient I really am."

Clayton Malk of 127 Packard Street stated he has heard what everyone said and basically everyone wants to cry. He stated that one person is talking about an irreplaceable thing but that is the only thing that is not going to change. Neighborhoods change. Everything changes. If you want something that is irreplaceable, buy a dime. That is the only thing that is not going to change. He stated the guy, about his wife, placed the value of a dollar over another human being. That is not what this is about. This is about people having a place to stay. These people provide a nice clean environment for people to stay. He stated this is being based on drug use and crime. Everybody doesn't do drugs, everybody doesn't commit crimes. He stated he lives in a house where it is very quiet. We never see each other until we get home from work. There are not problems. He stated you can't judge everybody for what a few do. If you weed out the few, what are left are decent people. If you take the decent people and throw them out in the streets, what's going to happen?

James Fewell of 438 North Loudoun Street stated he was born in Winchester in 1959 and has lived here all of his life. He works hard and lives with these people in these houses. They work hard. He stated there is not as much violence as these people think there is coming off these streets. It's coming from Kent Street people coming over onto our street. He stated you have hard working people here. Everybody in these houses works and has a job. He stated if they get misplaced, most of them are going to lose their jobs. Most of them have no homes. Where are they going to go?

Jolie Johnson of 514 North Loudoun Street stated that several members of the Council know her. She has worked catering parties at their homes, served them dinner at the Winchester Country Club and what have you. She stated she has lived in Winchester since 1980. She is not a transient and it appalls her that anyone would consider saying that to her. She stated she was a cancer patient and lost everything. Her husband left her 6 months before she was diagnosed. She could not work for a year and a half. As a result, she called David and Lanna Burns and got a room from them. She stated the rent and housing in this county and city has become so ridiculously expensive for a single woman like her making a little above minimum wage and yet she does work. She went back to work while getting intravenous chemo and has been at the same job for the last two years. She stated she is not going to ask her friends and family to support her. She stated that Dave and Lanna have provided her with a place to live. It's clean and she knows it's clean because she cleans it on a weekly basis to take a little bit off her rent every week. She stated she knows the people who live in the house. She would like to ask the other neighbors in the neighborhood who spoke earlier, when was the last time they tried to get to know any of these people. She stated they are all hard workers. There are some elderly people that she takes take food to or sometimes they will make food for her. Otherwise,

they may not have anyone to speak to. She stated the homelessness situation in this county and in this city right now is so utterly disgusting. In the last couple months, the articles in the newspaper and on the news have shown little children living in cars and the only way they can take a shower is at their school. For this county that is so wealthy and this city that is so wealthy, she wonders is it so important to preserve your historic district that you would disown your own little children that are out here starving and have no place to live? What if these people don't have a place, would you rather they live in your backyard or in the next alley? She asked Council to think very long and hard about the humanity here and the decision you make because these people are human beings and they deserve to have a new beginning. If they have made a mistake in their lives, everybody deserves a second chance to make a fresh start. If you tell them they can't, what type of message are you sending out to them? Not a very Christian one. She stated she didn't think anyone here could fall asleep tonight after letting something like this happen.

Joe Pickett of 117 Teaberry stated he is a landlord in the City of Winchester and wants to talk about his concerns with the rewording of the ordinance particularly in regards to the word "family." The new proposed wording, as he understands it, is particularly troubling because the issue of "no external locks on interior doors" is going to make it almost impossible for most of these people to continue to live in these types of homes. He stated the wording about "one common lease" would also be difficult to manage so as a result make these people have to move out and find housing in a shrinking housing market. He stated that most of the renters are working, poor people trying to do better for themselves. They cannot afford apartments on their own. They cannot afford monthly rent or security deposits. They can't afford houses, but a weekly rent is all they have between them and the streets. He stated these rooms are the last option for them and eliminating this kind of housing would cause many of them to go homeless. He stated he wanted to talk a little bit about his houses specifically. The houses he owns are decent homes. They are cleaned every week. They have air conditioning, heat, cable TV, full kitchens, washer and dryers. They are fully furnished. He stated he pays the utilities. The tenants are charged about \$145.00 a week. The typical profit on these houses with 4 people in it is about \$400 a month. He stated he has heard it through the grapevine that some people in the city think we are getting rich from these houses which isn't true. He stated these are safe and highly needed facilities. We have received a rental certificate from the city on these certifying they are safe. He stated we are providing a needed service to the working poor in the city. It is not in the city's interest to put our tenants out of their homes with no where else to go. He stated that most of his tenants are not transient. Most of them have been with him for more then 3 months. It is not in his interest to rent to transients. It is a pain in the neck. He stated he wants people there for months at a time and a vast majority of them are. He has had people with him for more than a year. He stated he hopes the City Council and Housing Authority is willing to sit down with all concerned parties here on this matter so we can work out a more reasonable solution. Our tenants need the housing we provide and the city needs landlords that provide this decent housing for them.

Michael Nicolaisen of 7 East North Avenue stated like all of these other people in the room, he has a crazy story. His life turned upside down and he ended up in Winchester about 4 months ago. He stated he found Joe Pickett and was concerned at first because he had never been in an environment like that. The way the things worked out, it is real beneficial for the people that live there. He is concerned about the new items you want to change. One being that if you can get a group of 4 people who don't know each other to

move into a house together and start paying everything. At first it's going to be difficult with their credit scores and getting it organized. It is much simpler with the system that is in place with one person whose financial background can pay for all of these bills and basically can fork over the money until they can collect the money from the weekly renters. He stated that other than that, he thinks we need to sit down and figure out the best way to appease the neighbors and the city and the tenants who need this vital service.

Noli Denikos of 441 North Loudoun Street stated a year ago today he was a transient. He had just got out of the penitentiary and didn't have anywhere to go. The first night he spent in the Rescue Mission. The next day he found David Burns who gave him a place to stay and a job. Three months later he was able to buy his own home and is now a property owner. He stated they left a positive impact on him and without them he would not be where he is today.

Jackie Wilson of 445 North Loudoun Street stated she would like to put a slightly different face on this. She is also a renter at 445 North Loudoun Street. She stated she would like to address who mentioned how many of us who live there are not weekly renters have made an effort to get to know these people and she has. Some of them are good people. However, the face she would like to present to you is someone who has called the police 12 times and who listens to people scream in the middle of the night. She has watched 4 different fights and watched several people be hauled away by the police. She stated it's not all of them. What she would like to say to the Burns and to Pickett is that she is not opposed to the renters. She has no problems or qualms with the people she knows. She implored them to talk to these people and monitor the situation and be a little more discriminatory of the people they put in these houses. She stated there are some very good people but there are also some people that have no respect. She stated she has been cussed at and threatened. She has seen more violence in one home and some of the very same people they call transient and seem to have targeted have offered to look out for her. She asked Council to please look at this not as much to target specific transient people but whether certain people are not adding or benefiting the community. They are scaring the heck out of her and she is tired of it. It happens on a weekly basis. She stated it happened last night when, in the middle of the night, a beer bottle was thrown through a window of a home across the street. Again, week, after week, after week, the police were called. She stated she just asks to please monitor the people who do not look out for the benefit of the community more closely.

Richard Berger of 447 North Loudoun Street stated he is a renter and is here to ask that you monitor the safety and security of the people who that live in this community. He has nothing against the good people that live here. He does not like being woke up in the night with police cars and loud fighting. He stated he would like to see the city do something more about this to make a safer community for everybody.

Barbara Intermaggio of 447 North Loudoun Street stated that she and her husband have owned the building for over 20 years. She has 4 apartments in it plus her home. She has had wonderful tenants. It seems that in the last year and a half or so, the neighborhood, has changed a lot. The question she has is when you have a single family house sold and its sold to someone who is going to run a boarding house, how can that transition happen without the city having anything to say or do about it? She stated that four people could live in one of those houses across the street from ours. Yet, there are 7, 8 or 9 people in

there. What is it that you can do to keep another house from being purchased that is zoned single family and then suddenly it is a boarding house? That is what she is concerned about because it seems like it has escalated in the last year and a half or so. She stated they have always had a little bit of it around them but not like this. As Jackie [Wilson] was saying, the violence has really risen. She stated her front porch is 130 feet from the street and, yet, in the back yard she can hear the profane language and fighting. She is going to have to talk to Mr. Diem to see how this process happens and how your new regulations are going to stop more boarding houses from happening.

Mr. Diem answered her by stating there currently is a process for a boarding house to exist through the Conditional Use Permit. In most of the cases, that has not happened and a transient occupancy has been established or more than 4 unrelated people are residing together, the conditional use permit process has not been taken advantage of in the city. That process exists for property owners who wish to operate boarding houses and yet we have not had an application for a boarding house in the last couple of years.

Mrs. Intermaggio stated that even when you or the police observe it is being used that way, you don't seem to have the authority to go in there and just stop it and say wait a minute you have to apply, you have to know what you are doing, and you have to meet certain standards. Why don't you just do it?

Mr. Diem stated that is a very good question and the answer is that the elements of this ordinance are intended to further qualify the provisions that exist within the current ordinance requiring what a single housekeeping unit is and what it means to have a commercial use of a single family dwelling that might rise to the threshold of being a boarding house as opposed to being a single family dwelling occupied by a family or occupied by 4 unrelated persons that are living and cooking together as a single housekeeping unit. Having observed some difficulty in wanting to identify that particular situation whether it is on North Loudoun Street or anywhere in the City of Winchester, we are looking to further qualify that language. The idea of people being able to rent rooms has not changed. That it is not new. This is just another support to qualify or identify that situation so that we can get it to where it needs to be whether they go through the conditional use permit process that is provided or they revert to a single family dwelling use.

Mr. Burns stated the he met with Mr. Diem several times and was told that Mr. Diem agreed to no more than 4 unrelated people living in the units. Mr. Burns moved these people in there and now with the new revisions, he feels like the city is trying to throw them out. He stated these dwelling units were created under the current laws and asked that the people be allowed to stay.

President Gaynor reminded Mr. Burns that he needed to address Council.

Larry Belkin of 436 North Braddock Street stated it seems to him the issue that is before Council is the integrity of the zoning ordinance and not an issue of housing for welfare. It is important that the zoning ordinance be able to be administered. If the zoning ordinance states in a particular zone, a particular use cannot occur, if the zoning ordinance is written in such a manner that it cannot be enforced, what you really have is a situation of chaos. He stated he would encourage you all to adopt the amendment of the various sections of

the zoning ordinance so that ordinance can be administered. You can then decide reasonably whether the North Loudoun Street boarding houses should be permitted without conditional use permits, for example, and there would be no question. If they are prohibited at this time, it is unreasonable to be able to go around through the core definitions in the zoning ordinance and establish these houses that are clearly prohibited in the zone they are established. All of the revisions are right to the point because what they do is define things and then allow you to make the decisions to allow where things go and that is what zoning is all about. He stated if he were to buy a house on Washington Street and establish in it a tannery and employ 30 people and bring them to a public hearing to say we would all lose our jobs if you don't allow this tannery to exist, you would say it is specifically prohibited in this zone. He stated to first get the zoning ordinance definitions appropriate to the situations and then make the social decisions you want to make regarding group houses or boarding houses and so on. But to do it all by default and simply say don't amend the zoning ordinances and then the people will decide by themselves where they want to be because we can't afford to enforce the zoning ordinances, that doesn't make much sense. He stated he totally supports the changes.

Wanda Roberson of 438 North Loudoun Street stated she has been in the area since 2002 and has been a state resident all of her life. She stated a lot of us have a very low income jobs, barely over minimum wage. To put restrictions on these homes, especially at this time of the year, would be a disaster for all of us. She stated prior to the home she is in, she came from a very bad situation where she was assaulted and raped last year. If it hadn't been for the abuse center and the folks like Dave and Lanna and Joe Pickett, she would not have a safe place and a safe haven to live in. They have given me that. They have given me back my hope. They have given me back self esteem. They have helped me to achieve goals. Now, she is going back to school to make a good contribution to this community, to the people of Winchester and Frederick and Clarke County. She asked Council to please consider her words very carefully when they go to redefine this zoning. Not only are you going to hurt people like her, but people that are at an age that they can't go and broaden themselves. They don't have the time or expense to do that. Please look into your hearts because they want to be a growing asset to the community and want to make a difference. We want to have a home where it is safe and healthy and happy and to be a good asset to our community and to make a major difference.

Shawn Roop of 438 N. Braddock and 21 North Street stated he is here tonight because he truly believes the ordinance as it stands is vague and these amendments will help tremendously. He stated he is worried about his children and the 7, 8 or 9 kids that come to his house to play every day but that we don't let outside. He had to get his fence rezoned so he could have a higher fence. He has found drug paraphernalia in his yard. He is not saying all of this is coming from the group homes, but when people filter in and out of those homes and it changes hands, what else can he think? He won't let his wife walk down North Loudoun Street. When they go on walks, they go in the opposite direction because of the cat calls that occurred every time she walks down that street. He asked Council to please let these ordinances happen.

David LaVoy of 177 Valley Mill stated although he lives in the county, he is still part of this group because he rents week to week. He knows a lot of the people in this room because they are in a nitch together because they rent from the same folks. A year and a half ago, he was living in a nice half a million dollar house with a combined income with

his wife of over \$100,000 a year. Because of a bad divorce, he is in a situation that he needs a place like this to stay. Without them, he would be homeless. He stated that he has been homeless on a couple of occasions over the last year. He asked Council to consider that, too, because all of us could be in that situation at one time or another.

President Gaynor asked if there was anyone who wanted to address Council on any other issue. *With no further citizens wanting to address Council, President Gaynor closed the public hearings at 9:04 p.m.*

In consideration to the large number of people in attendance, President Gaynor asked Councilor Nelson to present the report for the Planning and Development Committee.

PLANNING AND DEVELOPMENT

Vice-Chairman Nelson presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO CONVENTIONALLY REZONE AN APPROXIMATELY 0.70 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AND AN APPROXIMATELY 0.50 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO COMMERCIAL INDUSTRIAL, CM-1 DISTRICT AT 1930 SOUTH LOUDOUN STREET AND TO CONVENTIONALLY REZONE AN APPROXIMATELY 0.18 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO HIGHWAY COMMERCIAL, B-2 DISTRICT AND AN APPROXIMATELY 0.14 ACRE PORTION OF LAND FROM INTENSIVE INDUSTRIAL, M-2 DISTRICT TO COMMERCIAL INDUSTRIAL, CM-1 DISTRICT AT 1936 SOUTH LOUDOUN STREET. **RZ-07-08**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Abstain
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Absent
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO CONVENTIONALLY REZONE A 0.103 ACRE PORTION OF LAND FROM MEDIUM DENSITY RESIDENTIAL, MR DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 389 MILLWOOD AVENUE AND TO CONDITIONALLY REZONE A 0.397 ACRE

PARCEL FROM MEDIUM DENSITY RESIDENTIAL, MR DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 393 MILLWOOD AVENUE. **RZ-07-07**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Absent
Councilor Helm	Aye
Councilor Major	Abstain
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE AMENDING ARTICLES 1-2, 3-1, 4-1, 5-1, 5.1-1, 6-1, 7-1, 8-2, 9-1, 13-1, 15-1, 15.1-1, 16.1-2, 18-4, 21-2, and 21-3 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITIONS OF ADULT CARE RESIDENCE, ALCOHOL TREATMENT CENTERS, DRUG TREATMENT CENTERS, FAMILY, FAMILY CARE HOME, GROUP HOME, PROTECTED POPULATION RESIDENCE, AND SINGLE HOUSEKEEPING UNIT; AND, PERTAINING TO USE AND OCCUPANCY OF DWELLING UNITS; AND, PERTAINING TO VIOLATIONS AND PENALTIES. **TA-07-02**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Absent
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Motion to appoint Kim Pine Burke and Michael Miller as members of the Old Town Development Board for a three year term expiring October 31, 2010.

The motion was seconded by Mayor Minor then unanimously approved by voice-vote.

- Motion to appoint David Smith as a member of the Winchester Parking Authority for a five year unexpired term ending May 31, 2012.

The motion was seconded by Mayor Minor then unanimously approved by voice-vote.

- Announce the term expiration of Richard Demorest as a member of the Board of Building Code Appeals expiring December 31, 2007 and direct the Clerk of Council to advertise the vacancy.
- Announce the term expirations of David McClure, Boyd Pitcock, and Hunter Hurt as alternate members of the Board of Building Code Appeals expiring December 31, 2007 and direct the Clerk of Council to advertise the vacancies.
- Announce the term expirations of Nate Adams and Kevin Talley as members of the Planning Commission expiring December 31, 2007 and direct the Clerk of Council to advertise the vacancies.

FINANCE AND ADMINISTRATION

Chairman Buettner presented the following:

- First Reading, by title: AN ORDINANCE TO REPEAL SECTION 5.01 OF THE CITY'S CHARTER PERTAINING TO THE BIENNIAL BUDGET AND RE-ADOPT SECTION 5.01 OF THE CITY'S CHARTER TO PROVIDE FOR AN ANNUAL BUDGET.
- First Reading, by title: AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY OWNED BY HABITAT FOR HUMANITY WINCHESTER-FREDERICK COUNTY, INCORPORATED, EXEMPT FROM CITY TAXATION PURSUANT TO SECTION 58.1-3651 OF THE CODE OF VIRGINIA.
- Motion to approve the Fiscal Year 2008 Budget Supplemental Appropriations and Transfers.

The motion was seconded by Councilor Major then unanimously approved by voice-vote.

PUBLIC SERVICES COMMITTEE

Chairman Helm presented the following:

- Motion to adopt a Resolution providing the engineering and design of the expansion to the Percy Miller Water Treatment Facility.

The motion was seconded by Councilor Butler then unanimously approved by voice-vote.

- Motion to adopt a Resolution to allowing Public Services Director Perry Eisenach to sign the Project Administrative Agreement for the City wide traffic signal replacement/upgrades.

The motion was seconded by Vice-Mayor Buettner then unanimously approved by voice-vote.

- Motion to adopt a Resolution providing for upgrades and expansion at the Opequon Water Reclamation Facility.

The motion was seconded by Councilor Butler then unanimously approved by voice-vote.

- Motion to adopt a Resolution requesting the Commonwealth Transportation Board to establish an Enhancement Grant project for the improvement of the Green Circle Trail – Town Run Linear Park.

The motion was seconded by Councilor Coyne then unanimously approved by voice-vote.

- Announce the term expirations of J. Douglas Butler and Milt McInturff as members of the Tree Commission expiring December 31, 2007 and direct the Clerk of Council to advertise the vacancies.
- Motion to appoint Ronald A. Mislowsky as a member of the Industrial Development Authority for a four year term expiring August 31, 2011.

The motion was seconded by Councilor Nelson then unanimously approved by voice-vote.

Councilor Helm stated the committee decided against restriping Valley Avenue or Loudoun Street to include bike lanes.

COMMUNITY SAFETY AND SERVICES

Chairman Butler presented the following:

- First Reading, by title: AN ORDINANCE TO ADOPT DIVISION 4 OF ARTICLE IV, SECTION 14-83 OF THE WINCHESTER CITY CODE PERTAINING TO THE ESTABLISHMENT OF PARKING SPACES FOR PERSONS WITH A DISABILITY. **(Pages 32-35)**
- Motion to adopt a Resolution providing for the implementation of the Comprehensive Community Corrections Act for local responsible offenders, the Pretrial Services Act and the establishment of the Old Dominion Community Criminal Justice Board. **(Pages 36-37)**

The motion was seconded by Councilor Coyne then unanimously approved by voice-vote.

- Announce the resignations of Douglas Butler and David Burks as members of the Winchester Transportation Safety Commission effective October 1, 2007 and direct the Clerk of Council to advertise the vacancies.

HEALTH, EDUCATION AND WELFARE

Chairman Coyne presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 14.01 OF THE CHARTER OF THE CITY OF WINCHESTER TO ALLOW RE-APPOINTMENT OF SCHOOL BOARD MEMBERS IN OFFICE AS OF JULY 1, 2007. **(Requires Roll Call Vote) (Page 4)**

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Aye
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Absent
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Motion to appoint John Bishop as an At-Large member of the Winchester School Board for an unexpired term ending June 30, 2008.

The motion was seconded by Councilor Masters than unanimously approved by voice-vote.

- Announce the resignation of Debbie Smith as a member of the Parks and Recreation Board effective April 11, 2007 and direct the Clerk of Council to advertise the vacancy.

Councilor Coyne announced that October 7 – 13, 2007 is Mental Health Awareness Week and read Mayor Minor's Proclamation honoring the event.

NEW BUSINESS

- Mayor Minor announced this is the tenth anniversary of Habitat for Humanity in Winchester. They have built thirty homes in the community and are breaking ground for three more.
- President Gaynor talked with the Chamber of Commerce regarding Council's goals. He stated he is impressed with what Council has accomplished on the items discussed at the March retreat.

ADJOURNMENT – With no further business to discuss, Vice-Mayor Buettner moved that the meeting adjourn at 9:43 p.m. *The motion was seconded by Councilor Major then unanimously approved by a voice-vote..*

Kari J. Van Diest
Deputy Clerk of the Common Council